

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
CORPUS CHRISTI DIVISION**

**BERRY CONTRACTING, LP D/B/A  
BAY, LTD.**

**Plaintiff,**

**V.**

**M/V ARIES SWAN, its engines,  
tackle, etc., *in rem*  
Defendant.**

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**CIVIL ACTION NO. C-08-312**

**Admiralty Fed. R. Civ. P. 9(h)**

**PLAINTIFF'S RULE 26(A)(1) INITIAL DISCLOSURES**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Plaintiff Berry Contracting, LP d/b/a Bay, Ltd. ("Berry Contracting"), and files this its Rule 26(a)(1) Initial Disclosures pursuant to FED. R. CIV. P. § 26(a), as follows:

**I.**

(A) The name and, if known, the address and telephone number of each individual likely to have discoverable information that the disclosing party may use to support its claims or defenses, unless solely for impeachment, identifying the subjects of the information.

**See attached Exhibit "A".**

(B) A copy of, or a description by category and location of, all documents, data compilations, and tangible things that are in the possession, custody, or control of the party and that the disclosing party may use to support its claims or defenses, unless solely for impeachment.

**Photographs attached to Plaintiff's Original Verified Complaint (subsequently bates labeled 00001 to 00003);**

**Energy Sea & Land Projects, Inc.'s Purchase Order attached to Additional Evidence in Support of Plaintiff's Original Verified Complaint (subsequently bates labeled 00004 to 00005);**

**Energy Sea & Land Projects, Inc.'s Purchase Order, Rev. 2 attached to Additional Evidence in Support of Plaintiff's Original Verified Complaint (subsequently bates labeled 00006 to 00007);**

**Energy Sea & Land Projects, Inc.'s Purchase Order, Rev. 3 attached to Plaintiff's Original Verified Complaint (subsequently bates labeled 00008 to 00039);**

**Energy Sea & Land Projects, Inc.'s Purchase Order, Rev. 3 attached to Additional Evidence in Support of Plaintiff's Original Verified Complaint (subsequently bates labeled 00040 to 00041);**

**Attached summary of amounts owed as of 10/23/08 (bates labeled 00042). Invoices listed in the above summary (bates labeled 00043 to 04368). These invoices will be made available for inspection and copying at the offices of Royston, Rayzor, Vickery & Williams, L.L.P. at a time mutually convenient to all counsel or alternatively arrangements can be made to duplicate them and ship them to requesting party at its own expense.**

(C) A computation of any category of damages claimed by the disclosing party, making available for inspection and copying as under Rule 34 the documents or other evidentiary material, not privileged or protected from disclosure, on which such computation is based, including materials bearing on the nature and extent of injuries suffered.

**See attached summary of invoices owed. In addition, *custodia legis* expenses, court costs, and prejudgment and post judgment interest as provided by law.**

(D) For inspection and copying as under Rule 34 any insurance agreement under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in the action or to indemnify or reimburse for payments made to satisfy the judgment.

**Not applicable.**

Respectfully submitted,

/s/Jack C. Partridge

Jack C. Partridge, Attorney in Charge

Federal I.D. No. 10470

State Bar No. 15534600

Ralph F. Meyer

Federal I.D. No. 2831

State Bar No. 13994300

1300 Frost Bank Plaza

802 N. Carancahua

Corpus Christi, Texas 78470

(361) 884-8808

(361) 884-7261 Facsimile

ATTORNEYS FOR PLAINTIFF,

BERRY CONTRACTING, LP D/B/A BAY, LTD.

OF COUNSEL:

ROYSTON, RAYZOR, VICKERY & WILLIAMS, L.L.P.

**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of the foregoing was sent to the below listed counsel of record as indicated below on this the 30<sup>th</sup> day of **October, 2008**.

**VIA ELECTRONIC SERVICE AND  
VIA FACSIMILE 713-626-1388**

Thomas R. Nork  
Patricia Hair  
Andrew A. Woellner  
Phelps Dunbar LLP  
700 Louisiana St., Ste. 2600  
Houston, Texas 77002

**VIA ELECTRONIC SERVICE AND  
VIA FACSIMILE 713-276-5555**

John Pearson  
Gardere Wynne Sewell LLP  
1000 Louisiana, Suite 3400  
Houston, Texas 77002-5011

/s/Jack C. Partridge  
Of Royston, Rayzor, Vickery & Williams, L.L.P.

## **EXHIBIT "A"**

**Per-Ivar Fagervoll**

**Aries Supply 1 KS**

**Aries Marine**

**Aries Offshore**

Moloveien 3B

6004 Alesund

Norway

Phone number unknown

c/o John Pearson

Gardere Wynne Sewell LLP

1000 Louisiana, Suite 3400

Houston, Texas 77002-5011

*Have knowledge as to Plaintiff's claims.*

**Jose Molina**

**Dean Rojas**

**Energy Sea & Land Projects, Inc.**

14800 St. Mary's Lane, Ste. 120

Houston, TX 77079

281-531-7942

*Have knowledge as to Plaintiff's claims.*

**Joe Pena**

**Jeff Pape**

**Neil Kendrick, Project Manager**

**EXPRO**

Expro Americas, LLC

738 Hwy 6 South, Ste. 500

Houston, TX 77079

713-463-9776

*Have knowledge as to Plaintiff's claims.*

**Crossmar**

**Brian Saucier**

Address and phone number unknown

*May have knowledge as to Plaintiff's claims.*

**Berry Contracting, LP d/b/a Bay Ltd.**  
**Ken Luhan, President**  
**Randy Feikls, Vice President**  
**Brian Martin, Project Manager**  
c/o Jack C. Partridge, Attorney in Charge  
Ralph F. Meyer  
1300 Frost Bank Plaza  
802 N. Carancahua  
Corpus Christi, Texas 78470  
361-884-8808  
*Plaintiff*